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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/681,116	01/12/2001	Brian T. Jordan	IP105.1	7316

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EXAMINER


MCANULTY, TIMOTHY P

ART UNIT	PAPER NUMBER
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3682

DATE MAILED: 04/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/681,116	Applicant(s) JORDAN, BRIAN T. 	
	Examiner Timothy P McAnulty	Art Unit 3682	

-- *Th MAILING DATE of this communication appears on the cover sheet with the correspondence address --*
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 March 2004.
 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) ☐ Claim(s) _____ is/are allowed.
 6) ☒ Claim(s) 1-32 is/are rejected.
 7) ☐ Claim(s) _____ is/are objected to.
 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 1-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ancarani Restelli in view of Bellio et al.

Ancarani Restelli discloses in The figure, lines 12-33 of column 1, and in lines 29-35 of column 3 a gear shifting system for a bicycle transmission which operates in three modes, a manual mode, an automatic mode, and a programming mode wherein control of the transmission comprises actuating a controller 11 to enter the programming mode in which a rider manually shifts the bicycle transmission through selected gears; storing bicycle speeds for the selected gears associated with the manual shifts; the controller defining speed ranges for the selected gears; automatically shifting the bicycle transmission when operating in the automatic mode by measuring a current bicycle speed; determining a current gear of the bicycle transmission; comparing the current bicycle speed with a defined speed range for the current gear; and shifting the bicycle transmission from the current gear to another gear when the bicycle speed is outside the defined speed range for the current gear. The gear shift system in addition to the controller comprises a wheel speed input sensor 12; a gear control output 17,18; a display 23 which Ancarani Restelli further discloses in lines 33-45 of column 2, displays at least the current bicycle speed as well as the current gear ratio; a mode selector; a shifter; and a memory 30 on which a computer program is recorded.

Ancarani Restelli does not disclose automatically shifting the bicycle transmission when operating in the automatic mode by using only bicycle speed. However, it would have been

Art Unit: 3682

obvious to one of ordinary skill in the art at the time the invention was made to eliminate parameters other than bicycle speed for bicycle transmission shifting, since omission of an element and its function where not needed is obvious to one of ordinary skill in the art. *Ex parte Rainu*, 168 USPQ 375 (PTO Bd. of App. 1969). Subject matter is not patentable in absence of showing unexpected result[s] flowing from such omission. *In re Wilson*, 153 USPQ 740 (CCPA 1967).

Ancarani Restelli does not specifically disclose said actuating of said controller to enter the programming mode while the rider is actually riding the bicycle and to exit the programming mode and entering an automatic mode. However, Bellio et al. teaches at least in line 46 of column 11 to line 16 of column 12 a calibration mode of a bicycle transmission control system wherein a control stores rider selected gear shifting parameters; said calibration mode being executed while the rider is riding the bicycle and wherein the rider exits the calibration mode and enters an automatic mode (see specifically lines 57-65 of column 11). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the apparatus of Ancarani Restelli in view of the teachings of Bellio et al. to actuate the controller to enter a programming mode while the rider is actually riding the bicycle so as to accurately establish and store desired bicycle speeds.

Regarding claims 5, 12, and 27, shifting the bicycle transmission into the lowest gear upon actuation of the setting mode would be inherent so that all of the gears of the bicycle transmission will be manually selected during the setting mode thus ensuring a speed range is defined for all selectable gears.

Response to Arguments

3. Applicant's arguments with respect to claims 1-32 have been fully considered but are not persuasive. Bellio et al. teaches calibrating an automatic transmission while a rider is riding a bicycle. The fact that Ancarani Restelli does not specifically disclose this limitation does not render the modification of Ancarani Restelli non-obvious. Furthermore, Bellio et al. does disclose setting the shift points for use in an automatic mode. See lines 45-50 of column 11 where a rider selects a "set switch" and the system reads sensor signals and stores information read from the sensors in a memory. Finally, Bellio et al. additionally teaches that the rider exits the calibration mode and enters an automatic mode. See lines 57-65 of column 11 where a rider activates a "mode switch" to select a mode other than the calibration mode, i.e., a rider exits the calibration mode. See lines 3-6 of column 12 where three operational modes are available for selection including an automatic mode.

One cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Conclusion

4. This is a Request for Continued Examination of applicant's earlier Application No. 09/681,116. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

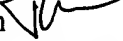
Art Unit: 3682


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy P McAnulty whose telephone number is 703.308.8684. The examiner can normally be reached on Monday-Friday (7:30-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bucci can be reached on 703.308.3668. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

tpm 
28 April 2004


DAVID A. BUCCI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600